

Written Testimony

Submitted to the United States House of Representatives

Small Business Committee

Presented by National Ombudsman Michael L. Barrera

March 18, 2002

Thank you Chairman Manzullo and Ranking Member Velazquez for providing me this opportunity to comment on how the Office of the National Ombudsman can help to improve the regulatory environment for small businesses.

First of all, I would like to state that I look forward to working with you, and the Committee, to improve the regulatory enforcement environment for our nation's 25.5 million small businesses. I am also excited that Tom Sullivan is now on board as the Chief Counsel for Advocacy. I have met with Mr. Sullivan on several occasions to discuss how the Office of Advocacy and the National Small Business and Agriculture Ombudsman ("U.S. Small Business Administration's (SBA) National Ombudsman") can work together to ensure a fair small business regulatory environment. We both agree that a strong working relationship with frequent communication between the two offices is critical to the SBA's missions of aiding and counseling America's small businesses and protecting small businesses against unnecessary regulatory burdens.

The Office of Advocacy is the premier federal government advocate for small businesses. Among its many duties, the Office of Advocacy works with federal agencies

in the implementation and promulgation stages of federal regulations to determine their impact on small businesses.

The SBA National Ombudsman, however, is specifically instructed to examine and rate federal agencies on how they enforce federal regulations. Pursuant to the Small Business Regulatory Enforcement and Fairness Act (“SBREFA”), the SBA National Ombudsman was created to seek out substantiated comments from small business concerns, non profit organizations and small government entities regarding their treatment by federal agencies during compliance or enforcement actions. As such, the statute itself created a system of checks and balances. The Office of Advocacy reviews and analyzes regulations before they are enacted. The SBA National Ombudsman determines if the regulations are being fairly enforced once they are in place.

For instance, the Office of the National Ombudsman assisted a small business that filed a comment involving U.S. Customs who fined a small business for improperly importing products into the United States. The small business disagreed with the fine and filed a comment with our office. Due to our intervention, Customs reversed their decision and refunded the fine back to the small business owner.

It is critical that the SBA has an Office of the National Ombudsman. In addition to receiving comments regarding regulatory fairness, the SBA National Ombudsman also receives comments regarding other issues such as contracting, capital access and business training. As a part of SBA, the SBA National Ombudsman can directly communicate these issues to the SBA Administrator and appropriate program managers.

The Ombudsman also benefits from access to the resources of the SBA's Office of General Counsel and other divisions. If removed from SBA, the Office of the National Ombudsman would find itself severely hampered by a shortage of these skilled, experienced persons.

Administrator Barreto has recognized the importance of the National Ombudsman and stresses to the SBA's field offices to use the Office of the National Ombudsman as another tool to assist and protect small businesses. The mission of the SBA National Ombudsman is now more relevant and more effective than ever before because it is now a core function of the SBA and its services are available at the grassroots level through local SBA offices.

Since the Senate confirmation of the Administrator in the last quarter of fiscal year 2001, the Office of the National Ombudsman has held six regulatory enforcement fairness hearings and six regulatory enforcement fairness roundtables.

Hearings, which are required by statute, are an avenue by which we seek specific comments from small business concerns. Roundtables are used to promote the mission of the SBA National Ombudsman to trade associations and other small business groups. Attached is a schedule of the RegFair meetings for fiscal year 2002. Please note that we will have at least one hearing and one roundtable in each region. This increase in hearings and roundtables is directly attributed to Administrator Barreto's commitment to make the mission of this office a core function of the SBA.

In addition to the increase in the number of hearings, attendance at the hearings and roundtables has also increased dramatically. For example, attendance at our RegFair

hearings in Orlando and Albuquerque drew crowds of approximately 70 and 80 small business owners and other interested parties respectively.

Additionally, through the efforts and contacts of our district field offices, we have received excellent news coverage for our hearings. This is assisting us in our effort to market the resources of the Office of the National Ombudsman. (See attached)

As demonstrated by this Committee's March 6, 2002 hearing on the Regulatory Flexibility Act, there is a continued need to eliminate unnecessary regulatory burdens on America's small businesses.

Small businesses need the Office of Advocacy to ensure regulations are fair before they are implemented and the SBA National Ombudsman to enable small entities to comment on how federal regulations are enforced. However, our resources and abilities should be judged by our results rather than our locations. I strongly believe that my office is and will continue to be effective as a part of SBA.

On behalf of the Administration, Administrator Barreto, and the Office of the SBA National Ombudsman, I look forward to working with the Chief Counsel, our legislative partners and the nation's small businesses to eliminate unnecessary regulatory burdens on small businesses.

Thank you for the opportunity to appear here today. I will be happy to answer any questions.

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